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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LUZ M. VEGA, an Infant by Her Parent And
Natural Guardian, MANUELA VALENTIN,

ECF CASE

Plaintiffs,

07 Civ. 2940 (GEL)

-against-

THE BRONX-LEBANON HOSPITAL CENTER,
ILIANA ROBINSON,

Defendants.

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THE BRONX-LEBANON HOSPITAL CENTER,

Third-Party Plaintiff,

-against-

MORRIS HEIGHTS MEDICAL CENTER,

Third-Party Defendant.

-----X

**PLAINTIFF'S FRCP RULE 26(a) (2)
DISCLOSURE OF EXPERT TESTIMONY**

Plaintiff Luz. M. Vega, an Infant, by her Parent and Natural Guardian, Manuela Valentin, by and through her attorneys, Fitzgerald & Fitzgerald, P.C., 538 Riverdale Avenue, Yonkers, New York 10705, hereby provides its disclosure of expert testimony Rule 26(a) (2) of the Federal Rules of Civil Procedure ("Fed. R. Civ. P."), as follows:

1. Plaintiff will call Bruce Roseman, M.D. as an expert witness in the field of clinical pediatrics and pediatric neurology at the trial of this matter.
2. The qualifications of Dr. Roseman, are set forth in his curriculum vitae, a copy of which is annexed hereto as **Exhibit "A"**.
3. The expert will testify concerning the results of his physical examination and the

contents of his report and he will opine that the plaintiff's injuries are causally related to the negligence and departures claimed by the plaintiff, including but not limited to the failure to deliver the infant plaintiff earlier by cesarean section as more explicitly set forth in his report, a copy of which is annexed hereto and made a part hereof as **Exhibit B**.

4. This expert will testify that the infant plaintiff has a normal life expectancy. He will testify that the infant plaintiff is diagnosed as having permanent brain damage. He will testify as to the underlying cause of the brain damage. He will testify that the infant plaintiff will have significant problems with locomotion, fine and gross motor coordination, language skills, speech processing, cognitive deficits and her capacity to learn.

5. Dr. Roseman will testify concerning the infant plaintiff's condition in utero and at birth as set forth in the records of the defendants including any laboratory results and he will testify further concerning the subsequent treatment and development of the infant plaintiff. This expert will read, interpret and comment upon the records of subsequent treatment as well as upon school records of the infant plaintiff. He will comment on and discuss the trial testimony of other experts and lay witnesses, including any testimony concerning the condition of the infant plaintiff before, at the time of and subsequent to his birth. The expert will also comment on the proposed testimony of defendant's experts, including the defendants' pediatric neurologists.

6. This expert will opine that the plaintiff's injuries are causally related to the negligence and departures claimed by the plaintiff herein, and as set forth in the plaintiff's bill of particulars and in this expert's report, including the failure to deliver the infant plaintiff earlier by cesarean section. He will discuss and explain the nature of the causal connection. This expert will discuss the causes and consequences of hypoxia- ischemia. This expert will opine with a reasonable degree of medical certainty that the infant plaintiff's cerebral palsy and profound psychomotor

retardation and permanent injuries were all due to hypoxic ischemic encephalopathy that she suffered due to intrauterine anoxia/ hypoxia. He will further testify that the infant plaintiff was not actively infected and that the cause of the infant plaintiff's permanent injuries and brain damage were the hypoxic ischemic encephalopathy. He will opine within a reasonable degree of medical certainty that this infant's injuries, CP and psychomotor retardation would all have been avoided by the performance of an earlier cesarean section.

7. The expert will give opinions regarding the infant plaintiff's current and future level of functioning in both the physical and intellectual domains. He will also give opinions as to the effect of plaintiff's injuries on her employability and academic performance. Specifically, the infant plaintiff's combination of physical and cognitive difficulties – she is wheelchair bound, is unable to walk, cannot use words, and cannot use her upper and lower extremities in a meaningful way - will make her unemployable and she will require continuous care in her activities of daily living. The expert will also give opinions regarding the need for custodial care in a group home made necessary by plaintiff's injuries. Specifically, the infant will need supervision and assistance from others for her entire life. This expert will also give opinions regarding extraordinary medical care, medical monitoring and medical supplies and equipment necessitated by plaintiff's injuries. He will further give testimony regarding therapies, counseling, schooling and tutoring which will be beneficial in the treatment and accommodation of plaintiff's injuries.

8. The grounds for Dr. Roseman's testimony will be physical examination, other physical examinations, pre natal, labor and delivery, newborn and pediatric records, school, and/or therapy records, his expertise, knowledge, education, training and experience and the general body of knowledge of pediatrics and pediatric neurology as well as any further testimony either at trial or by deposition developed during discovery or at trial.

9. Annexed hereto as part of Exhibit "A" is a list of publications by Dr. Roseman that have been published over the past ten (10) years.

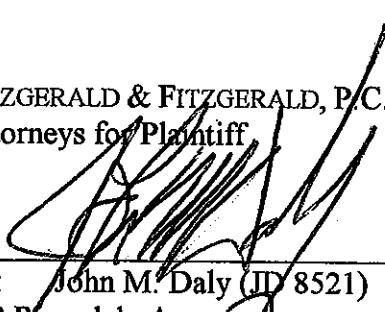
10. Dr. Roseman does not maintain a list of cases in which he has testified as an expert at trial or by deposition within the past four years.

11. Dr Roseman's testimony fee is \$10,000.00 for a full day's appearance in court. His fee for the medical record review and report is \$2,000. Dr. Roseman's hourly rate is \$450.00 for deposition preparation and testimony at depositions.

Plaintiff reserves the right to supplement this response if and when additional information becomes known.

Dated: Yonkers, New York
May 9, 2008

FITZGERALD & FITZGERALD, P.C.
Attorneys for Plaintiff



By: John M. Daly (JD 8521)
538 Riverdale Avenue
Yonkers, New York 10705
Telephone: (914) 378-1010
Facsimile: (914) 378-1092
E-mail: jdaly@lawfitz.com

TO: SHAUB AHMUTY CITRON & SPRATT, LLP
Attorneys for Defendant/Third-Party Plaintiff
Bronx Lebanon Hospital Center
Attn: JOHN PATERNITI, ESQ
655 Third Avenue
New York, New York 10017
Telephone: (212) 599 - 8200
Facsimile: (212) 599 - 7765
E-mail: jpaterniti@sacslaw.com

JONES HIRSCH CONNORS & BULL, P.C.
Attorneys for Defendant
Iliana Robinson, M.D.
Attn: MICHAEL KELLY, ESQ
One Battery Park Plaza
New York, New York 10004
Telephone: (212) 527-1000
Facsimile: (212) 527 -1680
E-mail: mkelly@jhcb.com
Alternative Telephone: (516) 535-5579

UNITED STATES ATTORNEYS OFFICE
Attorneys for Third-Party Defendant
Morris Heights Health Center, Inc.
Attn: PETER M. SKINNER, AUSA
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2601
Facsimile: (212) 637 - 2730
E-mail: peter.skinner@usdoj.gov

EXHIBIT A

CURRICULUM VITAE

Bruce Roseman, MD
125 South Broadway
White Plains, NY 10605
914-997-2032

email: Roseman@mc.blackberry.net

Recipient of \$1 Million GRANT
Trust For My Research:
Overdiagnosis of Autism

Associate Professor of Clinical
Pediatrics and Pediatric Neurology
New York Medical College

Adjunct Professor of Speech and
Language Pathology
Teachers College, Columbia University

Education:

Degrees:

Post-Graduate Training:

Honors:

Certification:

Consultant Pediatric Neurologist at the following Hospitals:

Englewood Hospital
Nyack Hospital Medical Center
Westchester Medical Center
White Plains Hospital

Publications:

Co authored:

Loma-Sanne I, Kang E, Sapehrdad S,
Goldstein S, Herman M, Accardo P, Green
P, Roseman B. A floppy child with
failure to thrive, Lancet 2005;
366:176.

Accardo P, Roseman B. Editorial Review
of the Use of Steroids in an Autistic
Child With ALPS Syndrome. Accepted
February, 2000, Journal of Pediatrics.

Franco I, Kogan S, Fisher J, Rifkinson-
Mann S, Reda E, Levitt S, Roseman B.
Genitourinary Malformations Associated
With Agenesis of the Corpus Callosum,
Journal of Urology 1993; 145: 119-121.

Franco I, Kogan S, Fisher J, Rifkinson-
Mann S, Levitt S, Roseman B.
Genitourinary Malformations Associated
With Agenesis of the Corpus Callosum,
American Academy of Pediatrics, Boston
MA: October 1990. (abstract)

Rifkinson-Mann S, Tugal O, Kasoff SS,
Lansen TA, Duffy KR, Kutscher M,
Jayabose R, Jacobson R, Wolff R,
Roseman B. Management of Malignant
Brain Tumors With Surgery and
Chemotherapy, Pediatric Neuroscience
1989, 15(3): 140-160.

Seizures Temporally Associated with the
Use of DEET Insect Repellant, Morbidity
and Mortality Weekly Report,
October 6, 1989, Volume 38, No. 39

Pseudotumor Cerebri and Lyme Disease, a
New Association, Journal of Pediatrics,
107:931, 1985.

The Effect of Propranolol on
Uncontrolled Rage Outbursts in Children
and Adolescents with Organic Brain
Dysfunction, Journal of the American
Academy of Child Psychiatry, 2:129,
1982.

Melkerson/Rosenthal Syndrome in a 7
Year Old Girl. Pediatrics,
Volume 61:490, 1978

**International Presentations:
(Peer-Reviewed)**

Loma-Sanner I, Schneider E, Herman M, Buhler H, Dolgin E, Murphy L, Lieberman A, Lancman M, Roseman B. The Recognition and Treatment of Benign Rolandic Epilepsy Can Reverse Language and Behavioral Dysfunction in Children Failing School. Poster Presentation to American Epilepsy Society, San Diego, California, December 2006.

Roseman B, Loma-Sanner I, Kang E, Goldstein S, Herman M, McGillan C, Shvarts A, Sepahrdad S, Green P. Pediatric Neurology and the Many Faces of Celiac Disease. Poster Presentation to International Celiac Symposium, Columbia-Cornell, New York, New York, November 2006.

Loma-Sanner I, Schneider E, Herman M, Lancman J, Roseman B. The Failing 2nd Grader: With Not So Benign, Benign Rolandic Epilepsy. Poster Presentation to American Epilepsy Society, Washington, D.C., December 2005.

Loma-Sanner I, Kang E, Sepahrdad S, Herman M, Goldstein S, Roseman B. The Many Faces of Celiac Disease: Acute Paraplegia of Infancy Presenting as the Initial Symptom. American Academy of Pediatrics. December 2004.

Invited guest lecturer at NIM to speak on current research on a new reversible cause of brain damage in children - celiac disease, September 2001.

Principal Investigator: The Use of Secretin to Treat Autism: A Pilot Study. Bruce Roseman, MD, Elaine Schneider, Howard Bostwick, MD, Stella Dong, Pasquale J. Accardo, MD. Presented at the American Society for Pediatric Research (part of the American Academy of Pediatrics), Boston, Massachusetts, May 2000.

Follow-up study presented at Child Neurology Society Meeting, St. Louis, Missouri, October 2000.

Successful Immunosuppressive Treatment of a Sexonegative Adolescent With Electron Microscopic Evidence of IgG Antibodies Attached to her Nodes of Ranvier. Roseman B, Latov N, Pechman P, Olarte M, Haym R. Child Neurology Society. October 1995.

4

Presentations:

Rifkinson-Mann S, Tugal O, Kasoff SG,
Jayabose S, Valsamis M, Duffy DK,
Lansman TL, Jacobson R, Kutscher M,
Roseman B, Wolff R. Management of
Malignant Neonatal Brain Tumor With
Surgery and Chemotherapy. Poster
Presentation, International Symposium
of Pediatric Neuro Oncology,
Philadelphia. May 1990. (abstract)

Research Grants:

Alpha Omega Alpha, National Medical
Honor Society. Prevalence of Celiac
Disease in Children Presenting With
Neurological Disorders. 2003 - 2004.

Anonymous Grant to Study the Effects of
Secretin on Autistic Children.
1999 - 2000.

Patents:

Non-invasive use of the infrared
spectrum for the continuous monitoring
of body temperature.

Motorizing the lateral movements of a
hospital gurney to facilitate emergency
transportation of patients.

Community Service:

Co-founder and president of The
Children's Dream Foundation, a
community-based charity whose mission
is to improve pediatric care in the
Hudson Valley.

Teachers College, Columbia
University

BR/nh/DBMR
Rose4193



EXHIBIT B

Bruce Roseman, M.D. P.C.

CENTRAL OFFICE
125 So. Broadway
White Plains, N.Y. 10605

Pediatric Neurology

914-997-2032
Fax: 914-997-2120

www.PediatricNeurology.com

April 30, 2008

Mr. Jim Duffy
Fitzgerald & Fitzgerald, P.C.
538 Riverdale Avenue
Yonkers, NY 10705

RE: Luz Vega
DOB 7/24/99

Dear Mr. Duffy:

At your request, I reviewed the medical, educational and social records of Luz Vega and in addition performed a pediatric neurological history and physical examination on Luz Vega on April 22, 2008.

Luz Vega was born on July 24, 1999, at 4:04 a.m., a full-term female infant weighing 4,450 grams, to a 24-year-old P3003 Hispanic mother after 41 weeks of gestation. She was the product of a pregnancy initially complicated for known but successfully treated syphilis. Mother had prenatal care at Morris Heights Medical Center. Mother was taking vitamins and iron. Mother was smoking during the pregnancy.

The mother was admitted to Bronx Lebanon Hospital on 7/23/99 at approximately 5:00 p.m. and to the delivery room at approximately 9:45 p.m. Baby girl Luz was delivered in a labor room bed at 4:04 am. with Apgar scores of 0, 3, 5 and 7 at one, five, 10 and 15 minutes. The baby was born apneic and without pulse. She was resuscitated, intubated and OXYGEN ventilated and given cardiac massage and epinephrine 2 doses in the delivery room. She was placed on a respirator and was administered bicarbonate and fluids because of shock, hypoglycemia and respiratory failure. She was then transferred to the neonatal intensive care unit. The hospital records discharge summary notes that she had a seizure disorder due to hypoxic ischemic encephalopathy (HIE). She developed twitching movements at two hours of age. A pediatric neurological consult was called and the baby was given 20 mg/kg of IV Phenobarbital. She had twitchings at 6

RE: Luz Vega
April 30, 2008
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and 14 hours, and a total of 3 push doses were administered. Convulsions returned on day of life 15. She was hypotonic in the first few days of life and then became hypertonic in neurological exam on 8/11/99, with poor suck. Head sonograms conducted on 7/30/99 revealed small ventricles suggesting cerebral edema, and head CT scans taken on 8/9/99 and 8/16/99 revealed multiple infarcts bilaterally in cortical and subcortical areas of the frontal and parieto-occipital region. A further exam on 9/3/99 revealed dilatation of the lateral ventricles. She had multi-system organ failure. The baby's RPR was non-reactive at birth; was 1:2 on 7/25/99; was 1.2 on 7/30/99; and was non-reactive on 9/2/99. Recent test results confirm non-reactive RPR and ATF-ABS.

On examination on April 22, 2008, Luz Vega is wheelchair-bound. She cannot ambulate. She does not speak. She cannot use words. Her ability to communicate is limited to grunting. She cannot use her upper and/or lower extremities in a meaningful way. She demonstrates no useful control of her hands. She had increased tone in her arms and her legs. She underwent surgery to correct tight heel cords. She had no evidence of significant voluntary control of any part of her body.

Her injuries are permanent. She will be dependent for everything for the rest of her life. She would benefit from round-the-clock home care attendant services. She will always need custodial care. She will need specialized schooling and tutoring.

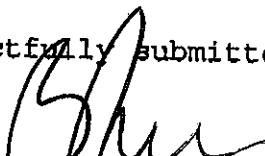
In summary, Luz Vega has evidenced cerebral palsy and profound psychomotor retardation. I expect her to live a normal life. However, she will be dependent for everything for the rest of her life and will need custodial care. She will never be able to hold down any type of job, even a menial one. She will always need special schooling, tutoring, and an aide to assist her in all activities of daily living including feeding, toileting, bathing and dressing. She will continue to need ongoing therapies, i.e., occupational, speech and physical therapies.

It is my opinion with a reasonable degree of medical certainty that Luz Vega's hypoxic ischemic encephalopathy, cerebral palsy, profound psychomotor retardation and permanent injuries would all have been avoided by performing an earlier caesarean section. I am of the opinion that the baby suffered

RE: Luz Vega
April 30, 2008
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no sequelae of syphilis since it was successfully treated in mother during the pregnancy, and to the present date Luz Vega has shown no evidence at all of having contracted congenital syphilis.

Respectfully submitted,


Bruce Roseman, MD
Associate Professor of Clinical
Pediatrics and Pediatric
Neurology
New York Medical College
Adjunct Professor of Speech and
Language Pathology
Teachers College, Columbia
University

BR/nh
Rose4193

ATTORNEY DECLARATION OF SERVICE

The undersigned, an attorney admitted to practice law before the Courts of the State of New York and this Court, hereby declares under penalty of perjury that on May 9, 2008 he served the following document:

Plaintiff's Rule 26(a)(2) Disclosure for Bruce Roseman, M.D.

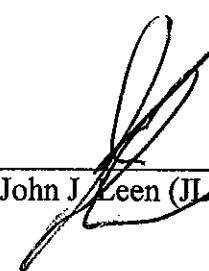
By First Class Mail upon:

SHaub Ahmety Citron & Spratt, LLP
Attorneys for Defendant/Third-Party Plaintiff
Bronx Lebanon Hospital Center
Attn: JOHN PATERNITI, ESQ
655 Third Avenue
New York, New York 10017
Telephone: (212) 599 - 8200
Facsimile: (212) 599 - 7765
E-mail: jpaterniti@sacslaw.com

JONES HIRSCH CONNORS & BULL, P.C.
Attorneys for Defendant
Iliana Robinson, M.D.
Attn: MICHAEL KELLY, ESQ
One Battery Park Plaza
New York, New York 10004
Telephone: (212) 527-1000
Facsimile: (212) 527 -1680
E-mail: mkelly@jhcb.com
Alternative Telephone: (516) 535-5579

UNITED STATES ATTORNEYS OFFICE
Attorneys for Third-Party Defendant
Morris Heights Health Center, Inc.
Attn: PETER M. SKINNER, AUSA
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2601
Facsimile: (212) 637 - 2730
E-mail: peter.skinner@usdoj.gov

Dated: Yonkers, New York
May 9, 2008


John J. Leen (JL 5550)